

AMENDED IN ASSEMBLY SEPTEMBER 10, 2015

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

**SENATE BILL**

**No. 106**

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**Introduced by Committee on Budget and Fiscal Review**

January 9, 2015

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An act to add Section ~~12803.2.5~~ 13295.6 to the Government Code, to amend Section 25751 of the Public Resources Code, and to amend Section Sections 306 and 309.5 of, and to add Sections ~~326.6~~, 307.1, 326.7, and ~~327.5~~ 327.5, and 769.5 to, the Public Utilities Code, relating to the Public Utilities Commission, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 106, as amended, Committee on Budget and Fiscal Review. Public Utilities Commission.

The California Constitution establishes the Public Utilities Commission (*PUC*) with jurisdiction over all public utilities, authorizes the ~~commission~~ *PUC* to establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process, and authorizes the ~~commission~~ *PUC* to fix the rates and establish rules for public utilities, subject to control by the Legislature. ~~The~~ *The Public Utilities Act provides that the office of the PUC shall be in the City and County of San Francisco, requires that the PUC hold its sessions at least once in each calendar month in the City and County of San Francisco, and authorizes the PUC to also meet at those other times and places as may be expedient and necessary for the proper performance of its duties.*

*This bill would require that the PUC hold its sessions at least once in each calendar month in the City and County of San Francisco or the City of Sacramento.*

*The Public Utilities Act authorizes the PUC to appoint an attorney for the PUC who holds that office at the pleasure of the PUC. The act requires the PUC's attorney to commence, prosecute, and expedite the final determination of all actions and proceedings directed or authorized by the president, except as otherwise directed or authorized by vote of the PUC, to advise the PUC and each commissioner in regard to all matters in connection with the powers and duties of the PUC or a commissioner, when requested, and generally to perform all duties and services as attorney to the PUC that the president, or vote of the PUC, may require of him or her.*

*This bill would require the PUC to notify the Joint Legislative Budget Committee when it enters into a contract for outside legal counsel to represent the PUC in any criminal investigation at an expense exceeding \$1,000,000 and to provide a copy of the contract to that committee within 10 days of it being approved by the Department of General Services.*

*Existing law provides that upon request made in writing to a public entity, that public entity may, in its discretion, defend or indemnify or defend and indemnify any witness who has testified on behalf of the public entity in any criminal, civil, or administrative action, except as specified.*

*This bill would prohibit the PUC from including in a contract for outside legal counsel terms providing for the representation in any criminal matter of individual employees except as provided in the above-described law. The bill would require the PUC to supply the Joint Legislative Budget Committee with a copy of the contract to represent an individual employee in a criminal investigation pursuant to the above-described law within 10 days of the date the contract is approved by the Department of General Services.*

*The Public Utilities Act establishes an independent Office of Ratepayer Advocates within the ~~Public Utilities Commission~~, PUC to represent the interests of public utility customers and subscribers, with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels. Existing law requires the director of the office to develop a budget for the office that is submitted to the Department of Finance for final approval. Existing law authorizes the director of the office to appoint a lead attorney to represent the office*

and requires the lead attorney to obtain adequate legal personnel for the work to be conducted by the office from the ~~Public Utilities Commission's~~ *PUC's* attorney and requires the ~~Public Utilities Commission's~~ *PUC's* attorney to timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office, provided the office has sufficient moneys and positions in its budget for the services requested. Existing law requires the ~~commission~~ *PUC* to develop appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee.

This bill would delete the requirement that the lead attorney obtain adequate legal personnel for the work to be conducted by the office from the ~~Public Utilities Commission's~~ *PUC's* attorney and the requirement that the ~~Public Utilities Commission's~~ *PUC's* attorney timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office. The bill would require the ~~commission~~ *PUC* to coordinate with the office in developing appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee.

~~The California Constitution provides that the Legislature has plenary power, unlimited by the other provisions of the constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility and to do all things that are necessary and convenient in the exercise of its power and jurisdiction whether specifically designated in the act or in addition thereto.~~

~~This bill would prohibit the commission from funding any program by a state entity using charges collected from public utility ratepayers unless expressly authorized to do so by statute enacted by the Legislature, including the annual Budget Act.~~

Existing law requires the ~~commission~~ *PUC* to submit to the Joint Legislative Budget Committee reports on all sources and amount of funding and actual and proposed expenditures for various activities.

This bill would require the ~~commission~~, *Department of Finance*, on a semiannual basis, to provide the Joint Legislative Budget Commission a written notification of any redirection of funds and ~~positions~~, *positions within the PUC*, including *any* loaning of staff to other state agencies or departments. The bill would require the California Research Bureau to conduct a review of the organization of the ~~commission~~ *PUC* to

ensure that the ~~commission~~ PUC is the best governmental entity to direct, regulate, and oversee specified public utility sectors.

Existing decisions of the ~~commission~~ PUC establish the California Hub for Energy Efficiency Financing, or CHEEF, program, a 2-year pilot program administered by the California Alternative Energy and Advanced Transportation Financing Authority and funded through charges collected by specified electrical corporations and gas corporations from their ratepayers.

The bill would require the commission to report to the relevant policy and fiscal committees of the Legislature on the outcomes of the CHEEF program and would prohibit the ~~commission~~ PUC from approving any extension of the program sooner than 30 days after making its report.

~~Existing law establishes the Government Operations Agency consisting of certain state entities, including the Department of Human Resources, which is governed by the Secretary of Government Operations.~~

*Existing law places various duties upon the PUC with respect to distributed generation and requires each electrical corporation, as defined, to submit to the PUC for its approval a distribution resources plan proposal to identify optimal locations for the deployment of distributed resources, as defined. Pursuant to existing law, the PUC has established operational and metering requirements for a generation facility to be interconnected to an electrical corporation's distribution grid.*

*This bill would require the PUC, by April 1, 2016, to establish an expedited distribution grid interconnection dispute resolution process, as specified, with the goal of resolving disputes over interconnection applications within the jurisdiction of the PUC in no more than 60 days from the time the dispute is formally brought to the PUC.*

*Decisions of the PUC adopted the California Solar Initiative administered by electrical corporations and subject to the PUC's supervision. Existing law requires the PUC and the State Energy Resources Conservation and Development Commission (Energy Commission) to undertake certain steps in implementing the California Solar Initiative and requires the PUC to ensure that the total cost over the duration of the program does not exceed \$3,550,800,000. Existing law specifies that the financial components of the California Solar Initiative include the New Solar Homes Partnership Program, which is administered by the Energy Commission. Existing law requires the program to be funded by charges in the amount of \$400,000,000*

*collected from customers of the state's 3 largest electrical corporations. If moneys from the Renewable Resource Trust Fund for the program are exhausted, existing law authorizes the PUC, upon notification by the Energy Commission, to require those electrical corporations to continue the administration of the program pursuant to the guidelines established by the Energy Commission for the program until the \$400,000,000 monetary limit is reached. Existing law authorizes the PUC to determine if a 3rd party, including the Energy Commission, should administer the electrical corporations' continuation of the program. Existing law makes the New Solar Homes Partnership Program inoperative on June 1, 2018, and requires any funding made available be encumbered no later than June 1, 2018, and disbursed no later than December 31, 2021.*

*If the PUC determines that the Energy Commission should be the 3rd-party administrator for the New Solar Homes Partnership Program, this bill would require that any additional moneys made available to fund the New Solar Homes Partnership Program be deposited into the Emerging Renewable Resources Account of the Renewable Resource Trust Fund and used for this purpose.*

*Existing law authorizes the Department of Finance to furnish services, or provide work for, any other state agency as requested by the Legislature and authorizes the department to charge an amount sufficient to recover the cost of furnishing services or the work performed.*

~~The~~

*This bill would require the ~~Secretary of Government Operations to contract with an independent, 3rd-party consulting firm to~~ Office of State Audits and Evaluations within the Department of Finance to assess the degree to which each activity and position related to the energy responsibilities of the ~~commission~~ PUC supports the core mission of the ~~commission~~. PUC and to make recommendations as to how resources might be better allocated to achieve the core mission objectives of the PUC. The bill would require the ~~secretary, office,~~ by April 1, 2016, to submit a report to the Legislature on the assessment. The bill would require the PUC to reimburse the department for the costs incurred by the office upon request by the department.*

*The bill would appropriate \$5,000,000 to the ~~commission~~ PUC for the support of the ~~commission~~. PUC.*

*This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section ~~12803.2.5~~ 13295.6 is added to the  
2     Government Code, to read:  
3     ~~12803.2.5.~~  
4     13295.6. (a) ~~The Secretary of Government Operations shall~~  
5     ~~contract with an independent, third-party consulting firm to Office~~  
6     ~~of State Audits and Evaluations within the Department of Finance~~  
7     ~~shall~~ assess the degree to which each activity and position related  
8     to the energy responsibilities of the Public Utilities Commission,  
9     as identified in the commission's zero-based budget conducted  
10    pursuant to Section 318 of the Public Utilities Code, supports the  
11    core mission of the commission and to make recommendations as  
12    to how resources might be better allocated to achieve the core  
13    mission objectives of the commission.  
14    (b) ~~The contracted consulting firm office~~ shall provide to the  
15    Joint Legislative Budget Committee ~~and the Department of Finance~~  
16    monthly updates on the progress of the assessment.  
17    (c) (1) By April 1, 2016, ~~the Secretary of Government~~  
18    ~~Operations office~~ shall, pursuant to Section 9795, submit to the  
19    Legislature a report on the assessment.  
20    (2) Pursuant to Section 10231.5, this subdivision is inoperative  
21    on April 1, 2020.  
22    (d) The Public Utilities Commission shall reimburse the  
23    ~~Government Operations Agency~~ *Department of Finance* for the  
24    costs incurred pursuant to this section upon request by the ~~agency~~  
25    ~~department~~ and appropriation by the Legislature.  
26    SEC. 2. *Section 25751 of the Public Resources Code is*  
27    ~~amended to read:~~  
28    25751. (a) The Renewable Resource Trust Fund is hereby  
29    created in the State Treasury.  
30    (b) The Emerging Renewable Resources Account is hereby  
31    established within the Renewable ~~Resources~~ *Resource* Trust Fund.  
32    Notwithstanding Section 13340 of the Government Code, the  
33    moneys in the account are hereby continuously appropriated to  
34    the commission without regard to fiscal years for the following  
35    purposes:

(1) To close out the award of incentives for emerging technologies in accordance with former Section 25744, as this law existed prior to the enactment of the Budget Act of 2012, for which applications had been approved before the enactment of the Budget Act of 2012.

(2) To close out consumer education activities in accordance with former Section 25746, as this law existed prior to the enactment of the Budget Act of 2012.

(3) To provide funding for the New Solar Homes Partnership pursuant to paragraph (3) of subdivision (e) of Section 2851 of the Public Utilities Code.

(c) The Controller shall provide to the commission funds pursuant to the continuous appropriation in, and for purposes specified in, subdivision (b).

(d) The Controller shall provide to the commission moneys from the fund sufficient to satisfy all contract and grant awards that were made by the commission pursuant to former Sections 25744 and 25746, and Chapter 8.8 (commencing with Section 25780), as these laws existed prior to the enactment of the Budget Act of 2012.

*(e) If the Public Utilities Commission determines that the State Energy Resources Conservation and Development Commission should be the third-party administrator for the New Solar Homes Partnership Program pursuant to subparagraph (A) of paragraph (3) of subdivision (e) of Section 2851 of the Public Utilities Code, any additional moneys made available to fund the New Solar Homes Partnership Program shall be deposited into the Emerging Renewable Resources Account of the Renewable Resource Trust Fund and used for this purpose.*

SEC. 3. Section 306 of the Public Utilities Code is amended to read:

306. (a) The office of the commission shall be in the City and County of San Francisco. The office shall always be open, legal holidays and nonjudicial days excepted. The commission shall hold its sessions at least once in each calendar month in the City and County of San Francisco. ~~San Francisco or the City of Sacramento.~~ The commission may also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties, and for that purpose may rent quarters or offices.

(b) The meetings of the commission shall be open and public in accordance with the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

In addition to the requirements of Section 11125 of the Government Code, the commission shall include in its notice of meetings the agenda of business to be transacted, and no item of business shall be added to the agenda subsequent to the notice in the absence of an unforeseen emergency situation. A rate increase shall not constitute an unforeseen emergency situation. As used in this subdivision, “meeting” shall include all investigations, proceedings, and showings required by law to be open and public.

(c) The commission shall have a seal, bearing the inscription “Public Utilities Commission State of California.” The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct.

(d) The commission may procure all necessary books, maps, charts, stationery, instruments, office furniture, apparatus, and appliances.

*SEC. 4. Section 307.1 is added to the Public Utilities Code, to read:*

*307.1. (a) The commission shall notify the Joint Legislative Budget Committee when it enters into a contract for outside legal counsel to represent the commission in any criminal investigation at an expense exceeding one million dollars (\$1,000,000) and shall provide a copy of the contract to that committee within 10 days of it being approved by the Department of General Services.*

*(b) A contract of any size entered into by the commission for outside legal counsel in any criminal investigation shall not include terms providing for the representation of individual employees except as provided in Section 995.9 of the Government Code. Copies of any contract for the representation of individual employees in a criminal investigation pursuant to Section 995.9 of the Government Code shall be provided to the Joint Legislative Budget Committee within 10 days of the date the contract is approved by the Department of General Services.*

~~SEC. 2.~~

*SEC. 5. Section 309.5 of the Public Utilities Code is amended to read:*



309.5. (a) There is within the commission an independent Office of Ratepayer Advocates to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission. The goal of the office shall be to obtain the lowest possible rate for service consistent with reliable and safe service levels. For revenue allocation and rate design matters, the office shall primarily consider the interests of residential and small commercial customers.

(b) (1) The director of the office shall be appointed by, and serve at the pleasure of, the Governor, subject to confirmation by the Senate.

(2) The director shall annually appear before the appropriate policy committees of the Assembly and the Senate to report on the activities of the office.

(c) The director shall develop a budget for the office that shall be subject to final approval of the Department of Finance. As authorized in the approved budget, the office shall employ personnel and resources, including attorneys and other legal support staff, at a level sufficient to ensure that customer and subscriber interests are effectively represented in all significant proceedings. The office may employ experts necessary to carry out its functions. The director may appoint a lead attorney who shall represent the office, and shall report to and serve at the pleasure of the director.

(d) The commission shall coordinate with the office to develop appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee. The procedures shall include, but shall not be limited to, the development of a code of conduct and procedures for ensuring that advocates and their representatives on a particular case or proceeding are not advising decisionmakers on the same case or proceeding.

(e) The office may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission, provided that any objections to any request for information shall be decided in writing by the assigned commissioner or by the president of the commission, if there is no assigned commissioner.

(f) There is hereby created the Public Utilities Commission Ratepayer Advocate Account in the General Fund. Moneys from the Public Utilities Commission Utilities Reimbursement Account in the General Fund shall be transferred in the annual Budget Act

1 to the Public Utilities Commission Ratepayer Advocate Account.  
2 The funds in the Public Utilities Commission Ratepayer Advocate  
3 Account shall be a budgetary program fund administered and  
4 utilized exclusively by the office in the performance of its duties  
5 as determined by the director. The director shall annually submit  
6 a staffing report containing a comparison of the staffing levels for  
7 each five-year period.

8 (g) On or before January 10 of each year, the office shall provide  
9 to the chairperson of the fiscal committee of each house of the  
10 Legislature and to the Joint Legislative Budget Committee all of  
11 the following information:

12 (1) The number of personnel years utilized during the prior year  
13 by the Office of Ratepayer Advocates.

14 (2) The total dollars expended by the Office of Ratepayer  
15 Advocates in the prior year, the estimated total dollars expended  
16 in the current year, and the total dollars proposed for appropriation  
17 in the following budget year.

18 (3) Workload standards and measures for the Office of  
19 Ratepayer Advocates.

20 (h) The office shall meet and confer in an informal setting with  
21 a regulated entity prior to issuing a report or pleading to the  
22 commission regarding alleged misconduct, or a violation of a law  
23 or a commission rule or order, raised by the office in a complaint.  
24 The meet and confer process shall be utilized in good faith to reach  
25 agreement on issues raised by the office regarding any regulated  
26 entity in the complaint proceeding.

27 ~~SEC. 3. Section 326.6 is added to the Public Utilities Code, to~~  
28 ~~read:~~

29 ~~326.6. The commission shall not fund any program by a state~~  
30 ~~entity using charges collected from ratepayers unless expressly~~  
31 ~~authorized to do so by statute enacted by the Legislature, including~~  
32 ~~the annual Budget Act.~~

33 ~~SEC. 4.~~

34 ~~SEC. 6. Section 326.7 is added to the Public Utilities Code, to~~  
35 ~~read:~~

36 ~~326.7. The commission, Department of Finance, on a~~  
37 ~~semiannual basis, shall provide to the Joint Legislative Budget~~  
38 ~~Committee a written notification of any redirection of funds and~~  
39 ~~positions, positions within the commission, including any loaning~~  
40 ~~of staff to other state agencies or departments.~~

~~SEC. 5.~~

SEC. 7. Section 327.5 is added to the Public Utilities Code, to read:

327.5. (a) The California Research Bureau shall conduct a review of the organization of the commission to ensure that the commission is the best governmental entity to continue to direct, regulate, and oversee activities under the commission's jurisdiction, including safety enforcement, in energy, communications, transportation, and water sectors, to determine whether other governmental entities are duplicating the activities of the commission, and to determine whether other governmental entities are better situated to regulate and oversee those activities.

(b) In conducting the review, the California Research Bureau, in consultation with appropriate state entities, shall do all of the following:

(1) Make recommendations as to which state or local agencies are best suited to regulate and oversee those activities specified in subdivision (a).

(2) Make recommendations for improving oversight, regulation, and efficiency to best serve California's ratepayers, businesses, and utilities.

(3) Estimate the costs associated with the implementation of its recommendations.

SEC. 8. Section 769.5 is added to the Public Utilities Code, to read:

769.5. (a) *By April 1, 2016, the commission shall establish an expedited distribution grid interconnection dispute resolution process with the goal of resolving disputes over interconnection applications that are within the jurisdiction of the commission in no more than 60 days from the time the dispute is formally brought to the commission.*

(b) *The expedited distribution grid interconnection dispute resolution process shall include the following elements:*

(1) *A distribution grid interconnection technical advisory panel consisting of at least eight individuals selected by the commission. Four of the technical advisory panel members shall be from electrical corporations and four shall not be from electrical corporations. The commission shall determine the length of the term of each member. If any member of the panel is an employee of, or contractor to, an electrical corporation, an employee of a*

1 vendor with an open application, or has a financial interest or  
2 financial relationship to a person or corporation with a financial  
3 interest in the outcome of the decision, that member shall not  
4 participate in any discussion involving that electrical corporation,  
5 vendor, or financially interested person or corporation.

6 (2) A review panel of four members shall be selected from the  
7 technical advisory panel for each dispute.

8 (3) If an applicant is unable to resolve an  
9 interconnection-related dispute after working with the electrical  
10 corporation operating the distribution grid, the applicant may  
11 seek resolution of the dispute using the commission's expedited  
12 distribution grid interconnection dispute resolution process.

13 (4) Upon agreeing to a final settlement of the dispute, parties  
14 shall be free to withdraw from the dispute resolution process.

15 (5) If the dispute is filed with the commission, the commission  
16 shall ensure that a technical advisory panel shall review the dispute  
17 and make a recommendation to the executive director of the  
18 commission within 30 days of receiving the dispute.

19 (6) The commission shall establish a public process to allow  
20 the electrical corporation, the applicant, and other interested  
21 parties to file written comments on the recommendation of the  
22 technical advisory panel.

23 (7) The panel shall request appropriate documents from the  
24 electrical corporation involved in the dispute, including, but not  
25 limited to, interconnection application studies.

26 (8) The scope of the technical advisory panel's review shall be  
27 limited to issues regarding compliance with the established  
28 interconnection rules. Any recommendations shall ensure safe and  
29 reliable interconnection.

30 (9) The scope of the technical advisory panel's review is limited  
31 to making recommendations to resolve specific customer disputes  
32 and recommending associated corrective actions, and the panel  
33 shall have no authority to assess penalties.

34 (10) Upon receipt of the recommendation from the technical  
35 advisory panel, the executive director shall have 30 days to review  
36 the recommendation and to prepare an order to the electrical  
37 corporation resolving the dispute. If the review panel from the  
38 technical advisory panel cannot agree on recommendations, then  
39 each recommendation of a review panel member shall be submitted

1 *to the executive director, who shall make the decision resolving*  
2 *the dispute.*

3 *(11) Any interested person seeking commission review of the*  
4 *executive director's determination shall file the request for review*  
5 *within 10 days of the determination. Upon receipt of the request*  
6 *for review, the executive director or the energy division director*  
7 *shall prepare a proposed resolution of the matter for approval by*  
8 *the commission.*

9 *(c) The commission shall provide the members of the technical*  
10 *advisory panel that are not from electrical corporations with an*  
11 *appropriate per diem compensation consistent with Section 19822.5*  
12 *of the Government Code.*

13 ~~SEC. 6.~~

14 *SEC. 9.* The Public Utilities Commission shall report to the  
15 relevant policy and fiscal committees of the Legislature on the  
16 outcomes of the California Hub for Energy Efficiency Financing,  
17 or CHEEF, program. The commission shall not approve any  
18 extension of the CHEEF program sooner than 30 days after making  
19 its report pursuant to this section.

20 ~~SEC. 7.~~

21 *SEC. 10.* The sum of five million dollars (\$5,000,000) is hereby  
22 appropriated from the Public Utilities Commission Utilities  
23 Reimbursement Account to the Public Utilities Commission for  
24 the support of the commission.

25 ~~SEC. 8.~~

26 *SEC. 11.* This act is a bill providing for appropriations related  
27 to the Budget Bill within the meaning of subdivision (e) of Section  
28 12 of Article IV of the California Constitution, has been identified  
29 as related to the budget in the Budget Bill, and shall take effect  
30 immediately.